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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/561,596

12/20/2005

Graham R. Purkins

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER

LEE, EDMUND H

ART UNIT

PAPER NUMBER

1744

NOTIFICATION DATE

DELIVERY MODE

09/22/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com

Office Action Summary	Application No. 10/561,596	Applicant(s) PURKINS ET AL.	
	Examiner EDMUND LEE	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 17,20,21,24 and 25 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 17,20,21,24 and 25 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/7/11 has been entered.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17,20,21, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolanus (USPN 6047946) in view of McPeak et al (USPN 6880808) and Bryant et al (USPN 5772085).

The phrase "for a pressurized metered dose inhaler" found in the preamble has not been given patentable weight because it is not a manipulative feature of the claimed process. The recitation of an intended use does not amount to a claim limitation unless it results in a manipulative difference between the claimed process and the prior art.

See MPEP 2111.02.

In regard to claim 17, Kolanus teach the claimed process (col 4, ln 50-col 5, ln 3; figs 1 and 2) except using one of the claimed materials for the stem; using a second material comprising a thermosettable elastomer; and molding first and second sealing elements that are longitudinally spaced apart from each other. In regard to using one of the claimed materials for the stem, McPeak et al teach a valve body and valve housing, wherein both body and housing are molding from PEEK or PAEK (patented claims 6 and 9 and 11). Since Kolanus and McPeak et al are analogous with respect to valves, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use PAEK as the polymer stem material of Kolanus in order to mold a durable and chemically resistant valve stem. In regard to using a second material comprising a thermosettable elastomer, and molding first and second sealing elements that are longitudinally spaced apart from each other, Bryant et al teach a valve stem having longitudinally spaced valve seals 16, 18 comprised of any suitable resiliently deformable material including thermoset rubbers (col 7, lns 18-38; figs 2a-2i). Since Kolanus and Bryant et al are analogous with respect to valve stems having a sealing element, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the longitudinally spaced apart thermoset sealing elements of Bryant et al on the valve stem of Kolanus in order to form an effective seal using resiliently deformable seals. In regard to claim 20, such is taught by the above combination of Kolanus and Bryant et al. In regard to 21, such is well-known in the molding art in order to ensure proper molding of a portion of a product before the molding of a subsequent portion. In regard to claim 24, such is well-known in the

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molding art in order to reduce cycle time (i.e. freeing up the mold for subsequent molding cycles) or strengthening the molded article through annealing. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to subject the article of Kolanus (modified) to thermal treatment in order to reduce cycle time or strength the article. In regard to claim 25, such is taught by the combination of Kolanus and Bryant et al.

4. Applicant's arguments with respect to claims 17,20-21, and 24-25 have been considered but are moot in view of the new ground(s) of rejection.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following teach the state of the art: 5456830; 5772085; 2002/0190085.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571.272.1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EDMUND H. LEE
Primary Examiner
Art Unit 1744

EHL
/EDMUND H. LEE/
Primary Examiner, Art Unit 1744